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No. _____

Supreme Court, U.S.
FILED
JUN 1 1987
JOSEPH F. SPANIOL, JR.
CLERK

IN THE SUPREME COURT OF THE UNITED STATES

October Term, 1986

KAREL FRANCISCUS GOELST,
Petitioner,

v.

JANNA WILHELMINA GOELST,
Respondent.

PETITION FOR WRIT OF CERTIORARI

WM. SCOTT SCHULTEN

Attorney for Petitioner

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34 pp

QUESTIONS PRESENTED

1. Whether the trial court erred in denying Petitioner's Motion to Dismiss based on lack of in personam jurisdiction, in view of the uncontroverted evidence adduced at trial that Petitioner never intended to establish residence in the forum, and that his contacts with the forum were unrelated to the subject matter of the litigation.

2. Whether the trial court violated Petitioner's right to a trial in accordance with constitutional due process by its refusal to grant a new trial in view of the harmful and clearly prejudicial hearsay testimony of a trial witness, admitted over proper objection, which testimony was inadmissible as a matter of law.

TABLE OF CONTENTS

		Page
I.	JUDGMENTS BELOW	2
II.	JURISDICTION	2
III.	APPLICABLE CONSTITUTIONAL PROVISIONS	3
IV.	STATEMENT OF THE CASE	3
V.	SUMMARY OF ARGUMENT	9
VI.	ARGUMENT	11
VII.	CONCLUSION	29
APPENDIX		Separately bound

TABLE OF AUTHORITIES

I. COURT CASES

Hanson v. Denckla, 357 U.S. 235 (1958) 13,19

International Shoe v. Washington, 326 U.S. 310 (1945) 12

Knox Metal Products, Inc. v. Watson, 100 Ga.App. 832, 112 S.E.2d 295 (1959) 27

Kulko v. Superior Court, 436 U.S. 84 (1978) 13,14,15,19,20

Marbury v. Marbury, ___ Ga. ___, 352 S.E.2d 564 (1987) 18,20

Rush v. Savchuk, 444 U.S. 320 (1980).....13,17

Worldwide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980)..... 13

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Respondent.

PETITION FOR WRIT OF CERTIORARI

The petitioner, Karel F.J. Goelst, prays that a writ of certiorari issue to review the judgment of the Supreme Court of Georgia denying his Application for Appeal, and his Motion for Reconsideration entered in this proceeding on March 3, 1987.

I. JUDGMENTS BELOW

The order issued by the Superior Court of Cobb County in the State of Georgia denying the Petitioner's Motion for New Trial is set forth in the Appendix at A61.[1] The order denying Petitioner's Application for Discretionary Appeal in the Supreme Court of the State of Georgia is set forth in the Appendix at A63. The order denying Petitioner's Motion for Reconsideration from that same Court is set forth in full in the Appendix at A65.

II. JURISDICTION

The denial of Petitioner's Motion for Reconsideration issued by the Supreme Court of the State of Georgia was entered

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1. References to portions of the record, which are reproduced in the Appendix, are designated by their appropriate page numbers, preceded by "A."

on March 3, 1987. The jurisdiction of this Court is invoked under Article 3, Section II of the United States Constitution and 28 U.S.C. 2104.

III. APPLICABLE CONSTITUTIONAL PROVISIONS

The Fourteenth Amendment of the United States Constitution provides in pertinent part: "No state shall... deprive any person of life, liberty, or property, without due process of law... ."

IV. STATEMENT OF THE CASE

The Respondent filed a Petition for Divorce in June of 1985. A1. The Petitioner, who no longer resided in Georgia, denied in his Verified Special Answer that the Georgia Court had jurisdiction over his person. A12. In his accompanying Affidavit, Petitioner stated that he no longer resided in

Georgia, and had only been present in that state for the purpose of giving his deposition since the Petition for Divorce was filed. The trial court overruled various jurisdictional objections and the matter went to trial on July 21, 1986. At trial, the issues centered on the income and net worth of the Defendant and the determination under Georgia law of a fair and equitable division of marital property.

As the evidence demonstrates, the primary issue in the case was the determination of an appropriate division of property and amount of alimony to be awarded to the Respondent. The main business asset of the Petitioner, as indicated by the transcript in the proceedings below, is a Dutch corporation which is a 100 percent subsidiary of a Swiss corporation which was owned either

singly or jointly by Respondent and Petitioner.

Because of the complexity of the economic circumstances of this divorce, which included corporations in two European countries, assets valued in Swiss francs, Dutch guilders, United States dollars, and debts payable to corporate, personal, and banking institutions, the dispute over the appropriate division of property and alimony was fierce.

Unfortunately, Appellant was unable to attend the trial of this case by medical conditions over which he had no control. Indeed, upon his arrival in Atlanta for the giving of his deposition, he became deathly ill and spent over five weeks in St. Joseph's Hospital in Atlanta. This, coupled with the fact that Appellant has had heart surgery, has a pacemaker implant, and has suffered

several major strokes, prevented his appearance at trial. Accordingly, Petitioner's testimony was given by deposition.

Given the conflict concerning actual assets and income of the Petitioner, corroboration by third party witnesses assumed tremendous significance.

The testimony of one Bob Schuitenmaker, formerly a manager in the Dutch corporation, was of apparently pivotal impact and importance in Respondent's case. Much of this witness's testimony, reproduced beginning at A38 of the Appendix hereto, involved hearsay evidence to which Petitioner's counsel maintained a continuing objection. It was the position of the Court that any out-of-court statement made to the witness by the Petitioner was admissible. Over Petitioner's counsel's continuing objection, the witness continued to

testify as to alleged statements made by the Petitioner which indicated that the Petitioner intended to defy any order of the court requiring him to pay money to the Respondent and that, further, he intended to conceal portions of his wealth from Respondent in order to circumvent his lawful responsibilities in the context of property settlement with Respondent.

In addition to his Answer, A12, accompanied by his Affidavit stating the facts upon which his jurisdictional objections were based, A17, which were submitted at trial, Petitioner made continuing and timely objections to the exercise of the Superior Court's jurisdiction over his person. A45. As the facts set forth in his Affidavit, and as corroborated by Respondent's own testimony at A33, the Petitioner did not maintain a matrimonial domicile in

Georgia either at the time of the commencement of the action or at any other time. The facts adduced at trial indicate that at no time did the Petitioner Goelst reside in this state, nor did Respondent's action for divorce and property settlement arise out of any conduct by the Petitioner within Georgia.

Further, Petitioner conducted no business activities within the State of Georgia or in the United States.

On July 24, 1986, the jury returned a verdict that required Petitioner to pay $10,000 a month as alimony and required Petitioner to relinquish his entire estate in the parties' real and personal property located in the State of Georgia. Unfortunately, this award is such that Petitioner is wholly unable to comply--his gross income from all sources is less than $80,000.00 U.S.

The Petitioner timely filed his Motion for a New Trial, and arguments were heard before the Court in September of 1986. On December 17, 1986, the trial court denied Petitioner's Motion for New Trial and entered a Final Dispositional Judgment and Decree. Based on the trial court's lack of jurisdiction over him and upon the improper admission of prejudicial hearsay testimony, the Petitioner appealed to the Supreme Court of the State of Georgia. Petitioner's Application for Discretionary Appeal was denied in February of 1987, with his Motion for Reconsideration was also denied, on March 3, 1987.

V. SUMMARY OF ARGUMENT

The questions presented herein concern the trial court's failure to grant Petitioner's Motion for New Trial and the

lack of jurisdiction over the person of the Petitioner.

In its trial proceeding, the Cobb County Superior Court of the State of Georgia denied certain fundamental rights of procedural justice to the Petitioner, Karel F. J. Goelst, the Defendant in the within and foregoing action. He was subjected to a trial of a court having no jurisdiction over his person. Having improperly asserted jurisdiction, the Court, over object of counsel, permitted the jury to consider irrelevant and highly prejudicial hearsay testimony. The resultant verdict was contrary to law, and the judgment was excessive and against the weight of the evidence. The magnitude of the forfeiture resulting from these violations of the fundamental principles of due process calls for this Court to examine the issues presented

herein and grant Petitioner's Request for a Writ of Certiorari.

VI. ARGUMENT

A. THE TRIAL COURT ERRED IN DENYING PETITIONER'S MOTION TO DISMISS BASED ON LACK OF JURISDICTION, IN VIEW OF THE UNCONTROVERTED EVIDENCE THAT PETITIONER LACKED THE MINIMUM CONTACTS REQUIRED BY DUE PROCESS TO ASSERT JURISDICTION OVER HIS PERSON.

The exercise of long-arm jurisdiction over a non-resident property settlement defendant in this case is an unconstitutional application of Georgia law. (See Georgia "Long-Arm" Statute, reproduced at A67.) The trial court's exercise of jurisdiction violates the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

The exercise of jurisdiction over the Defendant Karel Goelst violates the standards of "fair play and substantial justice" established by this Court as a limitation on the power of the individual states to exercise in personam jurisdiction over non-resident defendants. Mr. Goelst's contacts with the forum were neither purposeful, nor were the events leading up to the breakup of the marriage and the attendant division of property related to the forum.

The constitutional exercise of long-arm jurisdiction depends first upon whether the non-resident has sufficient minimum contacts with the forum to justify the assertion of in personam jurisdiction. International Shoe v. Washington, 326 U.S. 310 (1945). Later cases help redefine the analysis to a two-part inquiry. First, a state may assert personal jurisdiction only where

the defendant "purposefully avails himself of the privilege of conducting activities within the forum state, thus invoking the benefits and protections of its laws." Hanson v. Denckla, 357 U.S. 235, 253 (1958). See also, Worldwide Volkswagen Corp. v. Woodson, 444 U.S. 286, 297 (1980); Kulko v. Superior Court, 436 U.S. 84, 94 (1978). Second, a state may exercise in personam jurisdiction only where the defendant's purposeful conduct is sufficiently related to the claim. Rush v. Savchuk, 444 U.S. 320, 327 (1980); Hanson v. Denckla, 357 U.S. at 251-254.

In Kulko v. Superior Court, 435 U.S. 84 (1978), this court applied the foregoing two-part test to determine whether sufficient minimum contacts existed to bind a non-resident domestic relations defendant into the forum chosen by the plaintiff. In that case, the

court held that the husband's contacts with the forum state were insufficient to support the exercise of long-arm jurisdiction. Id. at 101. While the case involved a child support and custody modification claim, the court's analysis is directly applicable to the case at bar.

The defendant in Kulko lacked purposeful contacts with California. The fact that the couple had been married during a brief visit to California sometime earlier and that the defendant had visited the state on another occasion were simply too insubstantial to find jurisdiction within the bounds of due process. Id. at 92-93. The separation agreement, which allowed the children to live for the summers with their mother in California, and the fact that the defendant father often permitted his children to spend more time with their

mother in California than was required under the agreement, were insufficient to find that the defendant "purposefully availed himself of the benefits and protections of California's laws." Id. at 97-98.

The holding of Kulko amply demonstrates that one spouse's unilateral activity in the forum cannot bind the other spouse to the jurisdiction thereof in the absence of the defendant's purposeful availment of the privileges and protections of the forum's laws. That is, when the claim arises from the defendant's "personal domestic relations and the defendant has not purposefully derived any financial benefit from forum related activity, jurisdiction is unreasonable." Id. at 96-97.

In the instant case, the Defendant Karel Goelst conducted no business activity in Georgia, nor was Georgia his

domicile of choice. His livelihood was earned exclusively by the companies owned and controlled in Europe, and his legal residence for all purposes was Campione, Switzerland.

It is not contested that his ownership of a single parcel of residential real estate in Georgia, purchased with proceeds of a similar residential investment property sold within one year of purchase in the state of Florida, unquestionably subjects that portion of his property to the jurisdiction of the forum. However, that single instance of his ownership of residential investment property is a contact too tenuous to subject Mr. Goelst's European businesses and property located in Europe to the jurisdiction of the Georgia court.

Kulko also stands for the principle emphasized by the Court in Rush v.

Savchuk, 444 U.S. 320 (1980), that the defendant's conduct in the forum must be related to the claim asserted. In Kulko, the plaintiff sought a modification of the custody and child support decree. The agreement preceding the decree was issued in New York, as was the decree itself. The events leading up to the litigants' separation occurred in New York. Therefore, it was inappropriate for a claim based on occurrences in another forum to be litigated in California. The Court in Rush focused the jurisdictional inquiry explicitly on the importance of the relationship among the defendant, the forum, and the litigation. Id. at 327.

In the case at bar, not only is the Petitioner Goelst not sufficiently related to the forum, but there does not appear to be a constitutionally sufficient relationship between the

claims asserted against Mr. Goelst at trial and the forum. It is clear from the testimony in the trial record that the events leading to the breakup of the marriage occurred outside the forum, as did all of the parties' income-producing activities.

As Rush v. Savchuk teaches, it is possible for a defendant's contacts to have no jurisdictional significance. Here, Mr. Goelst lacked judicially cognizable ties, and the contact between the subject matter of the litigation and the forum was insubstantial.

The foregoing principles were applied in Georgia Supreme Court in the recent case of Marbury v. Marbury, ___ Ga. ___, 352 S.E.2d 564 (1987). In that case, the Marburys had married in the state over a decade prior to the proceeding and had maintained a marital domicile in Georgia for approximately 18

months. Subsequent to their separation, Mrs. Marbury moved back to the state, during which time Mr. Marbury visited the state on several occasions. 352 S.E.2d at 566. The Court noted that there was no indication that the events which led to the dissolution of their marriage occurred in Georgia. Id.

Applying the reasoning of Kulko v. Superior Court, 436 U.S. 84 (1978), the court found that there were insufficient contacts to assert jurisdiction over the non-resident defendant. His contacts with the state did not constitute "purposeful acts which conferred jurisdiction over him" in the sense that he could not "reasonably anticipate being haled into court in Georgia." Id. The Marbury court found that the circumstances did not meet the two-step minimum contacts test, wherein a plaintiff invoking the jurisdiction of the court

must show that the defendant has acted in a manner by which he purposefully avails himself of the privilege of conducting activities within the forum state and, further, that there is a substantial connection between the defendant's activities in the forum and the subject matter of the suit. Id. at 567, citing, Hanson v. Denckla, 357 U.S. 235, 251-254 (1958).

By the same reasoning, Mr. Goelst lacked the contacts with the state that are a prerequisite to its exercise of power over him. Like Mr. Marbury, Mr. Goelst may have availed himself of the benefit of the laws of Georgia in that he purchased residential property in that state and stayed in that residence during his visits to this country for limited, non-business related reasons, under a B-2 Non-Resident Visa. He also was overtaken by illness in this state, requiring

intensive hospital care for almost three months' time. However, there is no indication that this activity on the part of Mr. Goelst had any connection with the subject matter of the present litigation--a division of property pursuant to the dissolution of the marriage. Therefore, the attempt to exercise personal jurisdiction over Mr. Goelst is unconstitutional.

The instant case involves individuals who are of Dutch origin and nationality. Petitioner took great pains not to remain in this country any longer than one hundred eighty (180) days at any one time and consistently refused any status other than that conferred by a B-2 Temporary Visa. As stated in his affidavit, Petitioner's intermittent extended visits to this state to visit family and for medical purposes in no way

reflected a desire to reside in this state.

In light of Petitioner's stated intention not to reside in this state, and the absence of any activity other than to seek medical attention, visit members of his family, and to make a real estate investment in Georgia, it is both manifestly unfair and inconsistent with basic notions of due process to hold that Petitioner purposely subjected himself to the personal jurisdiction of the trial court. Further, the cause of action which the Respondent Mrs. Goelst maintained against her husband did not arise out of Mr. Goelst's activity within this state, but arose out of their joint conduct over the course of their forty-year marriage.

Based on the foregoing, the Petitioner, Mr. Goelst, respectfully requests this Court to grant his Petition

based on the trial court's improper and unconstitutional assertion of jurisdiction over him personally.

B. THE TRIAL COURT'S ADMISSION OF HEARSAY TESTIMONY PREJUDICED THE OUTCOME OF THE TRIAL AND DENIED PETITIONER'S DUE PROCESS RIGHT TO A FAIR TRIAL BEFORE AN IMPARTIAL JURY.

The trial court below committed legal error that prejudiced the outcome of the trial when it permitted, over Defendant's timely objection, certain irrelevant hearsay testimony to be heard and considered by the jury. As set forth in Petitioner's Statement of the Case, supra, and in the Appendix at A38, Respondent's counsel elicited damaging hearsay testimony from Appellant's former employee. The testimony concerned, in substantial part, Petitioner's state of mind with regard to the court proceedings

currently underway in this country and his intention of complying therewith. Despite the patent lack of relevance to the matters at issue, the court allowed the testimony.

Mr. Goelst, an elderly man with a heart condition, was unable to be in this country for the trial and was, therefore, unable to rebut the testimony. The trial court not only allowed the testimony and refused to strike same, but also failed to give any limiting instruction to the jury whatsover.

In the trial court below, the prejudicial testimony at issue was Schuitenmaker's assertion that Petitioner said that he was not going to pay "one penny" to Respondent. There is no fair inference which can be drawn from the referenced hearsay testimony that was in any way material to the issues at trial. Nor does the record reveal any evidence

which was contrary to or could be rebutted by Petitioner's contentions reflected in that testimony by Schuitenmaker.

The matter asserted by the testimony in question did not concern either the scope of Petitioner's assets nor the location thereof. Rather, the inference reasonably to be drawn from the testimony was that, at the time that the remarks were made, Petitioner did not desire to cooperate with the court and would not abide by any order of court. The issue of Petitioner's state of mind at the time of the out-of-court statement was not an issue properly before the trier of fact and was, therefore, erroneously admitted into evidence.

This irrelevant hearsay testimony unfairly prejudiced the outcome of the trial. The hearsay testimony in this case was without probative value. It

supplied no element of proof necessary to assist the jury in its determination of a fair and equitable property settlement. It was admitted in clear violation of the hearsay rule. No fair inference could be drawn from the referenced hearsay testimony which was in any way material to the issues at trial. The inference that the jury obviously drew from this testimony was that, at the time the alleged remarks were made, Petitioner did not desire to cooperate with the court and was determined to withhold his share of a fair settlement from Respondent, Mrs. Goelst.

The improperly admitted evidence allowed the jury to make an erroneous assumption that Mr. Goelst had the intention and indeed the power to defy any settlement imposed by the court. This assumption may have prompted the jury to give the unusually large award.

The standard for determining whether an error is harmful is clear. "Where hearsay evidence is erroneously admitted, though it has no probative value, but could have been considered by the jury and have influenced their verdict, the error is harmful." Knox Metal Products, Inc. v. Watson, 100 Ga.App. 832, 112 S.E.2d 295 (1959) (emphasis supplied). The sole effect of the testimony at issue was to improperly impugn the character of the Petitioner. Proper and timely objections were made by Petitioner's counsel, and the trial court judge even reversed his ruling later in the trial. But, by then, the damage had been done.

The improperly admitted evidence prejudiced the outcome of the trial so as to deprive Petitioner of his right to a fair trial before an impartial jury. In the absence of the exclusion of the evidence or instructions to the contrary,

the jury could have reasonably believed that the Petitioner indeed had the wherewithal to withhold his reasonable share of the assets under his control and thereby thwart the jury's award to Respondent. In an effort to forestall such tactics, the jury chose an extraordinary and inequitable settlement in the expectation that after Mr. Goelst had successfully prevented the transfer of his foreign assets to the Respondent, Mrs. Goelst would be guaranteed a reasonable settlement. In other words, in an effort to do equity, based on its incomplete understanding of the court's power to enforce its judgment in other jurisdictions, the jury's verdict was excessive and contrary to the evidence presented in support of Respondent's claim.

VII. CONCLUSION

For the foregoing reasons, a Writ of Certiorari should be issued.

Respectfully submitted,

Wm. Scott Schulten

Attorney for Petitioner

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APPENDIX TO
PETITION FOR WRIT OF CERTIORARI

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EDITOR'S NOTE:

THE FOLLOWING PAGES WERE POOR HARD COPY AT THE TIME OF FILMING. IF AND WHEN A BETTER COPY CAN BE OBTAINED, A NEW FICHE WILL BE ISSUED.

TABLE OF CONTENTS

	Page
COMPLAINT FOR DIVORCE	A1
SPECIAL ANSWER.	A12
EXCERPTS FROM TRIAL TRANSCRIPT. . . .	A20
FINAL JUDGMENT AND DECREE	A48
DENIAL OF MOTION FOR NEW TRIAL. . . .	A61
DENIAL OF APPLICATION FOR DISCRETIONARY APPEAL FROM THE GEORGIA SUPREME COURT	A63
DENIAL FOR MOTION FOR RECONSIDERATION	A65
Official Code of Georgia Section 9-10-91 (Grounds for exercise of personal jurisdiction over nonresident.)	A67

IN THE SUPERIOR COURT OF COBB COUNTY

STATE OF GEORGIA

JANNA WILHELMINA GOELST,

Plaintiff,

v.

KAREL FRANCISCUS GOELST,

Defendant.

CIVIL ACTION FILE NO. 8513912-06

COMPLAINT FOR DIVORCE

NOW COMES, JANNA WILHELMINA GOELST, as Plaintiff against KAREL FRANCISCUS GOELST, as Defendant and for cause of action shows unto the court as follows:

1.

Your Plaintiff shows that she is a resident of said State and County and has

been for more than six (6) months next previous to the filing of this petition.

2.

Your Plaintiff shows that the Defendant is a resident of said State and County and is subject to the jurisdiction of this Honorable Court.

3.

Your Plaintiff shows that Plaintiff and Defendant were intermarried in due form of law on February 23, 1943 in Bussum, Netherlands and lived together as husband and wife until on or about June 12, 1985, at which time they separated and have not lived together as husband and wife and are now residing in a bona fide state of separation.

4.

Your Plaintiff shows that there were four (4) children born of this marriage, all of whom are of legal age and self-supporting; there are no minor children.

5.

Your Plaintiff shows that the marriage between Plaintiff and Defendant is irretrievably broken, and that she is entitled to a divorce from the Defendant on such ground as set forth in O.C.G.A. Sec. 19-5-3(13).

6.

Your Plaintiff shows that there is no possibility of re-establishing the marriage on a meaningful basis.

7.

Further, Plaintiff shows that the Defendant is guilty of cruel treatment, as set forth in O.C.G.A. Sec. 19-5-3(10).

8.

Your Plaintiff shows that she is entitled to a total divorce from the Defendant.

9.

Plaintiff shows that during the marriage the parties have accumulated

considerable property, including, but not limited to, a house and furnishings located at 3607 Childers Road, Cobb County, Roswell, Georgia.

10.

Plaintiff shows that she is without funds with which to pay her attorneys and that the Defendant should be responsible therefor.

11.

That the Standing Order of this Court issue.

WHEREFORE, Plaintiff prays and demands:

(a) That summons issue directed to the Defendant requiring the Defendant to be and appear at this Honorable Court on a day certain as determined by law to answer this Complaint;

(b) That the Plaintiff be granted a total divorce, that is to say a vinculo matrimonii upon legal principles;

(c) That she be awarded the house and furnishings described above;

(d) That she be awarded reasonable attorney's fees;

(e) That she be awarded temporary and permanent alimony for her support;

(f) That the Plaintiff have such other and further relief as may be just, proper and equitable under the circumstances;

(g) Standing Order issue.

_____

Charlie W. Field
Attorney for Plaintiff

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Signatures Continued on Next Page

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IN THE SUPERIOR COURT OF COBB COUNTY

STATE OF GEORGIA

JANNA WILHELMINA GOELST,

Plaintiff,

v.

KAREL FRANCISCUS GOELST,

Defendant.

CIVIL ACTION FILE NO. 8513912-06

VERIFICATION

STATE OF GEORGIA

COUNTY OF COBB

Personally appeared before the undersigned attesting officer duly authorized by law to administer oaths came JANNA WILHELMINA GOELST, who, on oath, deposes and states that the facts

contained in the within and foregoing petition are true and correct to the best of her knowledge.

Janna Wilhelmina Goelst

Sworn to and subscribed
before me this 11th day
of July, 1985.

Notary Public

IN THE SUPERIOR COURT OF COBB COUNTY

STATE OF GEORGIA

JANNA WILHELMINA GOELST,

Plaintiff,

v.

KAREL FRANCISCUS GOELST,

Defendant.

CIVIL ACTION FILE NO. 8513912-06

ORDER AND RULE NISI

All parties in the above styled action in the Superior Court, Cobb Judicial Circuit, are subject to this Order from the date of institution of suit or service of summons:

1.

Each party is hereby enjoined and restrained from causing or permitting the minor children of the parties to be removed from the jurisdiction of this Court.

2.

Each party is hereby enjoined and restrained from doing, or attempted to do, or threatening to do, any act of injuring, maltreating, vilifying, molesting, or harassing the adverse party or any of the children of the parties.

3.

Each party is hereby enjoined and restrained from selling, encumbering, contracting to sell, or otherwise disposing of or removing from the jurisdiction of the Court, any of the property belonging to the parties except in the ordinary course of business.

This Order shall be binding upon the parties in the above styled action that was filed in the Superior Court, Cobb Judicial Circuit, and upon their agents, servants, employees, and all other persons acting in concert with said parties.

IT IS FURTHER ORDERED that the Defendant named herein show cause before the assigned Judge, on the 6th Floor, Cobb Superior Court Building, Marietta, Georgia, on the 29th day of August, 1985, at 9:30 o'clock a.m. if any he can why the demands of the Plaintiff should not be granted as demanded.

IT IS SO ORDERED, this 12th day of July, 1985.

G. Grant Brantley
Judge, Superior Court
Cobb Judicial Circuit

IN THE SUPERIOR COURT OF COBB COUNTY

STATE OF GEORGIA

JANNA WILHELMINA GOELST,

Plaintiff,

v.

KAREL FRANCISCUS GOELST,

Defendant.

CIVIL ACTION FILE NO. 8513912-06

SPECIAL ANSWER

COMES NOW Defendant, KAREL FRANCISCUS J. GOELST, and subject to his defense of lack of personal jurisdiction, specially answers Plaintiff's Complaint as follows:

FIRST DEFENSE

This Court lacks personal jurisdiction over Defendant and Plaintiff's Complaint must, therefore, be dismissed. See Exhibit "A" attached hereto and by this reference made a part hereof.

SECOND DEFENSE

There is insufficiency of process and Plaintiff's Complaint must, therefore, be dismissed.

THIRD DEFENSE

There is insufficiency of service of process and Plaintiff's Complaint must, therefore, be dismissed.

FOURTH DEFENSE

Venue over Defendant is improper and Plaintiff's Complaint must, therefore, be dismissed.

FIFTH DEFENSE

Defendant, without waiving his objections to the jurisdiction,

insufficiency of process, insufficiency of service of process and venue, specially answers Plaintiff's Complaint as follows:

(1)

Defendant admits the allegations of Paragraph (1) of Plaintiff's Complaint.

(2)

Defendant denies the allegations of Paragraph (2) of Plaintiff's Complaint.

(3)

Defendant admits the allegations of Paragraph (3) of Plaintiff's Complaint, except that Defendant denies that Plaintiff and Defendant separated on June 12, 1985.

(4)

Defendant admits the allegations of Paragraph (4) of Plaintiff's Complaint.

(5)

Defendant admits the allegations of Paragraph (5) of Plaintiff's Complaint.

(6)

Defendant admits the allegations of Paragraph (6) of Plaintiff's Complaint.

(7)

Defendant denies the allegations of Paragraph (7) of Plaintiff's Complaint.

(8)

Defendant admits the allegations of Paragraph (8) of Plaintiff's Complaint.

(9)

Defendant admits the allegations of Paragraph (9) of Plaintiff's Complaint.

(10)

Defendant denies the allegations of Paragraph (10) of Plaintiff's Complaint.

(11)

Defendant denies the allegations of Paragraph (11) of Plaintiff's Complaint.

WHEREFORE, Defendant prays that Plaintiff's Complaint be dismissed with all costs cast against Plaintiff.

Richard P. Decker

Wm. Scott Schulten

For DECKER, COOPER & HALLMAN, A Professional Corporation
Attorneys for Defendant

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CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing party in the foregoing matter with a copy of this pleading by hand delivery.

This 11th day of September, 1985.

Wm. Scott Schulten
Attorney for Karel F. J. Goelst

AFFIDAVIT

Personally appeared before me, the undersigned authority duly authorized by law to administer oaths in the State of Kentucky, Karel F. J. Goelst, who, after being duly sworn, deposes and states as follows:

1) My name is Karel F. J. Goelst, defendant in case #85-1-391206 in the Superior Court of Cobb County, Georgia.

2) I do not reside in the County of Cobb, nor do I reside in the State of Georgia. Since on or about January 15, 1981, I have stayed from time to time in a house that I purchased which is located at 3607 Childers Road, Roswell, Georgia, but I never intended to establish residency at that location.

3) Since January, 1981, I have spent a considerable portion of my time in Europe and the Netherlands, and was frequently absent from the house in Roswell for several months at a time. My company maintains a house in Loosdrecht, in Holland, and I frequently travel throughout Europe.

4) I left Roswell, Georgia on approximately June 6, 1985, and I have not returned to Georgia since that date. I have no intentions of residing in Georgia in the future.

5) I do not own any interest in any business venture in Georgia, nor do I conduct any business in Georgia at the present time.

6) I was served with a summons in Loosdrecht. I was not served with any court papers in Georgia.

7) I own property in Georgia consisting primarily of my one half

interest in the house on Childers Road, the furnishings located in that house, and the land surrounding the house. I have been informed that my wife seeks to obtain such property through the pending action for divorce.

8) This affidavit is submitted for the sole purpose of demonstrating to this court that I am not a resident of Cobb County or of Georgia and that, therefore, this court has no personal jurisdiction over me.

This 10th day of September, 1985.

_____
Karel F. J. Goelst

Subscribed to and sworn by me this 10th day of September, 1985.

_____
Linda Barnes,
Notary Public
State at Large

My commission expires:
November 10, 1988

[EXCERPTS FROM TRIAL TRANSCRIPT]

MR. CUSTER: Call the Defendant, Your Honor, for purposes of cross-examination.

THE COURT: Well, he obviously is not here.

MR. CUSTER: That being the case, Your Honor, we would move the Court to allow us to read into evidence the deposition which Mr. Johnson took of Mr. Goelst on the 18th of February, 1986, which I am filing the original of with the Court.

THE COURT: What say you, sir?

MR. SCHULTEN: So long as the entire deposition is read I have no objection.

MR. CUSTER: Yes, sir.

THE COURT: All right, sir.

MR. CUSTER: Your Honor, I will play the role of Mr. Goelst. Mr. Johnson will play himself. I would presume Mr. Schulten will play himself.

THE COURT: All right, sir. I will allow you to briefly explain to the jury, what you are doing, Mr. Custer.

MR. CUSTER: All right. Ladies and gentlemen of the jury, pursuant to the law, a deposition of Mr. Goelst, the Defendant, was taken by my partner, Mr. Johnson, on the 18th of February, 1986, beginning at 1:30, in front of a court reporter, and the testimony was typed up in booklet form and in this proceeding I will be sitting there as if I were Mr. Goelst here in court and Mr. Johnson will be asking questions of me, simply reading what he said previously. I will be reading back the answers and then Mr. Schulten will do his thing, I would

presume, in terms of his role during the deposition.

THE COURT: I believe the witness was testifying under oath?

MR. CUSTER: Yes, sir... .

Q: Why did you first move to Georgia?

A: We first lived at Lighthouse Point, we just wanted to make a trip, my wife and I were going to make it a round trip, and finish and end up in Kentucky with Pat Mitchell. We went to Georgia, and then we went to Florida and everything was clean, and we bought a model with everything brand new, everything was in it and on it, so we bought that in Lighthouse Point, and we lived there for awhile, I don't know exactly how long, probably a year. And I had a life insurance in Switzerland, I could cash that in, I did that, we did that, and then after awhile we started

looking for another house. We were able to sell this house at a hell of a nice profit, and so we made a nice amount of money there, and I discussed it with Pat Mitchell and it seemed that it would be better, if would be better for me to roll over that money in a bigger or more expensive house in Boca Raton.

(Whereupon a short recess was taken).

Q: I had asked, I think my last question is why did you first move to Georgia.

A: So then there was the business with Mac and there was about seven hundred thousand guilders in that, and I became a little shaky for the Meva, and Bratschi and I, I really thought that he wanted to buy it, and his proxy had saw the business, and he saw it was exactly as the Meva. He told that immediately to his boss, so in no time I had a letter from Mr. Bratschi and we had discussion

in January, beginning January, something like that, and so for days I had made proposals, figured everything out --

Q: Does this have to do with you moving to Georgia?

A: Yes.

Q: Okay.

A: And here in Georgia I was becoming a little shaky, and with all that money, I didn't see that Mac was really doing something with it. It was great on the technical side, but it was very very difficult for the guy because he was pretty young, twenty-seven, around there, so then I started to worry about it, and already for a year, either she or I had shopped around and we couldn't find anything. And then the very last thing that I decided to look at, the last thing before I take a glass of Scotch, and that's when we found this, and it's a gorgeous house, hilly and nice piece of

property with little ponds and I started to look at it. And I called my wife and told her to get a ticket, so she came here next day, and we looked at it and we bought it the same afternoon.

Q: Were you living in Boca Raton at the time that you brought your wife up to look at the house?

A: Yes, she had already been in the Marriott, weeks on end she had lived there, so then I said I have to go see Mac anyway so I will go shop around, and then I found the house. And I called and I said come over, let's have a look, it looks quite nice. I mean lots of it had to be changed, there was no pool there, or things like that.

Q: A pool was put in, is that correct?

A: A pool with everything on it and around it.

Q: Did you put a cabana in?

A: Yes, nothing was outside so we put the whole bit, so let's not talk for two hours about the cabana.

Q: Roughly how much money did you spent improving the house?

A: That's not easy to say.

Q: Say a hundred thousand?

A: We have her majesty who has a tendency of buying all pretty things, so probably a considerable amount went into that, but I don't know.

Q: Would it be more than fifty thousand, more than a hundred thousand, more than a hundred fifty thousand?

A: I can't tell you, you better ask her, I wouldn't really know how much, but I know it was a considerable amount.

Q: Was all the furniture that you owned brought up to this house in Roswell?

A: Yes, after obstacles, I mean we took everything except what we couldn't use there.

Q: Did you maintain a home anywhere else other than the home in Roswell?

A: Since when?

Q: Since you bought the house in Roswell?

A: No.

Q: Has Roswell been your mailing address until you moved last June?

A: Look, those are very simple questions, but I have learned so far in the states that you really have to dig deep in because if we are talking about residence and this and that, then the trouble starts. Let me say this, there was an agreement, still is there, between the Netherlands and the USA and the Dutch Antilles or something like that that means if you are not more than approximately a hundred sixty days here

in Roswell, approximately, something a hundred and sixty days, then you do not become a resident, and I have never attempted to get a green card or anything of that sort. I mean I knew from Pat Mitchell pretty darn well what that would be for me over three years ago, so I thought as long as I keep track of that, and I have a record of all the entries and departures since '81, and also my passport so that was taken care of. And furthermore in Holland where I could also only stay for a few months at a time, I had a very little something in Holland which was in fact my old hunting lodge, and that's where I lived, and that's what I still have in Holland. It's a small cottage.

Q: How much time did you spent in Holland in this cottage -- what was the longest time that you spent at this

cottage after you had bought the house in Roswell?

A: I had surgery, and my wife had surgery that morning, I had heart surgery here, she was twice here in Northside, and then later on she had a very bad infection, same thing as I have, and I took -- so I also always did it in such a way as I would never spent more time here than I was allowed to, but this one time since there was all this surgery going on --

Q: Now, was that from September of '84 until June of '85?

A: Yes, that's correct.

MR. SCHULTEN: We have records of all the times he was in the country, and out of the country.

Q: What was the longest period of time in any one given time that you spent in the cottage in Holland?

A: Five months one time, but in the meantime I went to Switzerland and other places, but then we were trying to sell all this Mevan, and Mr. Schuitenmaker was going to take care of that, but not a damn thing happened, and that was probably, I would say the last time.

Q: When would that have been that you spent five months at the cottage?

A: I'm not quite sure, it's either '82, it couldn't have been '81 because I was here with the house and all that mess.

Q: So '82 or '83?

A: '82 I think, but you can check on that.

Q: That's fine. Did you maintain a residence some place else other than where you were living in Roswell?

A: No, I didn't need a residence, that's the way the agreements were, so I also don't have to pay taxes in the

States, so that takes care of that. At least at the time Pat did all the research for it, and when I came to the States Sidle and Sidle in New York, on the request of my man in the Netherlands has also researched all this, but that was eight years ago so --

Q: All right, over the last three years have you paid taxes, personal taxes in Holland?

A: Not that much, you have to understand that if I have an income of twenty-five thousand guilders and a few life insurances, and the equivalent of Social Security, which is kind of an allowance for the state, but Pat has all that information, but taxes, I never really worried about it except I was in court for six years so I let my accountants take care of that... .

Q: Is it your intention to establish a residence in Italy?

A: Yes, I already have that.

Q: So you are now a resident of Italy?

A: Not of Italy, from -- there is an area inside, there is an area of Italy inside Switzerland, and that's where I am a resident from, it's Switzerland all around it, it's like an Island of Italy there, an enclave, and that's where I live.

Q: Is that where you intend to establish your residence?

A: If I ever get out of this hospital, yes, I mean once dismissed with the divorce behind me... .

* * *

Q: As part of that obsession with taxes, is it not true that he strenuously avoided becoming a resident of any country?

A: Yes, it had only to do with taxes because I backed him to when we went to American it was very easy for us to obtain a green card but he refused it constantly and every time let's say when he came back, I felt like a criminal and I -- every time we had big rows about it because I though it was because I can't live with the system like that.

Q: So, your testimony is that he more or less forced you to keep traveling?

A: Yes.

Q: So as to prevent becoming a resident?

A: Yes.

Q: Then is it not also true when he moved to Georgia he did not intend to become a resident of the State of Georgia?

A: He considered it as his permanent residence, but he thought he was so clever to be a resident to avoid taxes, that's quite different.

Q: But he did not intend to become a legal resident of the State of Georgia, did he?

A: He considered himself as a --

MR. CUSTER: Your Honor, excuse me.

THE WITNESS: Of the State of Georgia.

MR. CUSTER: I object to legal resident of the State of Georgia. She is not a lawyer. She is not competent to answer that.

MR. SCHULTEN: I am not asking whether he became a legal resident. I am

asking whether he intended to become a legal resident.

THE COURT: He has a thorough and sifting cross-examination and I will allow the question. I will overrule the objection.

Q: (By Mr. Schulten) Was it not your understanding that your husband desired to avoid becoming a resident of the United States period?

A: Yes, but he wanted to live here.

Q: He didn't want to --

A: But he thought he could manage it without paying taxes.

Q: Okay. So, he wanted to have a house here and he wanted to spend time here, but he didn't want to be a legal resident of the State of Georgia, is that correct?

A: Because of his taxes, but he considered himself, let's say, apart from it, and I am not a lawyer, but considered

himself a resident because why should he have taken all our furniture here and buy a big house like this here and tell me again and again that he would always stay here?

Q: Wasn't it a fact that he was concerned about the possibility that the taxing authorities in other locations might come and take his possessions from him?

A: I never heard that of him.

Q: That was not his explanation for bringing the furniture over to the United States?

A: No, definitely not.

Q: Okay.

A: No, because to every country we moved we always took our furnishings with us because he knows exactly how well I love my furnishings.

Q: Okay. But he didn't intend to become a resident of all of those

countries to which you moved, did he, he didn't intend to stay in all of those countries for the rest of his life, did he?

A: No.

Q: Okay. You made a lot of money on the sale of your house in Florida, did you not?

A: We gained on it. How much the profit was, I don't know.

Q: But you do know you gained a certain amount?

A: Yes, every house I decorated and we sold because I am a good decorator.

* * *

Q: All right. Are you satisfied that you know all of the income that was received by the Meva or the Profilo or the Bekago, do you think there is any other income that you are unaware of?

A: I don't know, sir, I am not aware of other income.

Q: All right.

A: I wouldn't be surprised though.

Q: Has the statement ever been made to you by Mr. Goelst concerning money in Swiss accounts?

A: Oh, he talks on every occasion about that.

Q: What has he stated to you about money in Swiss accounts?

MR. SCHULTEN: Your Honor, I object to what Mr. Goelst may have said to this man. There is no -- this is not a statement to contradict a statement made

by Mr. Goelst. It's pure hearsay. I don't agree just because the declaration was made by a party to this case that it means that a third party can testify to its contents.

MR. JOHNSON: He is testifying as to what a party to the case told him.

MR. SCHULTEN: There is no exception to the hearsay rule that says blanket exceptions based on one of the declarants being a party to the case -- you have got to know it was inconsistent with the statement or an actual exception to the hearsay rule. As I understand that hearsay rule, a party cannot say what a party said just because he is a party to the case and if that's the case, I would like to see a citation on that because I certainly have never heard of that exception stated that way.

MR. JOHNSON: I think that anything that Mr. Goelst stated to Mr.

Schuitenmaker, Mr. Schuitenmaker being-- Mr. Goelst is a party. He certainly can come in and deny it or Mr. Schuitenmaker can be cross-examined on it, but as a party of the case, we have the -- Mr. Schuitenmaker has -- can testify as to what he was told by the party.

THE COURT: I am going to overrule the objection and allow it.

Q: (By Mr. Johnson) Would you please tell us what it was that Mr. Goelst said concerning bank accounts in Switzerland?

A: Sir, we talked so many times about that I just don't know what you exactly want to know.

Q: Did he ever have reference to the bank accounts in regard to a divorce?

A: Oh, in that matter, yes.

Q: What did he state?

A: That nobody could get to that money and that nobody could ever touch it

and he was not going to pay one penny out of it.

Q: Do you have -- did he ever state to you how much money was in there?

A: No, sir.

Q: Did he give you --

A: That was too complicated. You needed an accountant for at least three hours to figure that out, plus the fact that it changes almost every day.

Q: To your knowledge do you have any idea whether it was a large sum, small sum, or what?

A: Well, I have seen the accounts and I have seen how much money was transferred to the United States. That was every year about $120,000.00, I would say.

Q: That was transferred out of Swiss accounts?

A: Yes, sir.

Q: Are you presently aware of Mr. Goelst's health?

A: I met him for the last time when I resigned. After that I haven't seen him.

Q: Okay.

A: But I guess -- well, I know practically from day to day how it is.

Q: From your own personal experience can you -- from your own personal knowledge, can you tell us what his health is?

A: Well, at that time he was absolutely able to do all of his business. He was traveling to Switzerland up and down. He went to Israel. That's all to my personal knowledge. I know that he was on a fishing trip to Austria to catch trout. He returned yesterday.

Q: He returned to where?

A: To his hunting lodge because he caught only one 20 centimeter fish. That's six inches.

Q: Do you know how far it is from his hunting lodge in Holland to where he went fishing in Austria?

A: About 1300 kilometers?

Q: Do you know how he traveled to Austria?

A: He drove his own car.

Q: And he arrived back in Holland yesterday?

A: Yes.

Q: And do you know how long he was on this fishing vacation?

A: He had his birthday party on the 10th of July. His birthday is on the 11th, and that was a huge party in Holland in the garden of the Queen's palace. Then he went the next day on holiday. That was the 11th of July. He returned last night.

Q: And he drove the entire way?

A: Yes.

Q: Do you know if he presently plays tennis?

A: He has always played tennis, but I just don't -- I don't know whether he plays that at this moment.

MR. JOHNSON: Okay, I have got no further questions at this time.

THE COURT: You may examine.

* * *

MR. SCHULTEN: We have one motion to make.

THE COURT: Okay, what is that?

MR. SCHULTEN: I would move to dismiss based on lack of jurisdiction and the admission of the Plaintiff that the Defendant is -- her opinion did not seek to establish residency, did not establish an American domicile here and therefore couldn't come under the new statute concerning jurisdiction as to any assets other than those located in the State of Georgia.

MR. CUSTER: Of course, that ignores the long arm statute, Your Honor, and I hardly think that Mr. Schulten could be taking that position since he joined us just moments ago in a motion for the entry of a divorce. I thought that that was abandoned a long time ago, Your

Honor. Your Honor has been urging the Defendant to resolve this issue of jurisdiction and it is my understanding that basically it has been abandoned as a result of entering into this trial.

MR. SCHULTEN: I have had a great deal of difficulty owing to the geographic circumstances and the health of my client in obtaining what I would have normally obtained in the way of statements and affidavits to make a motion. I did obtain an affidavit from my client concerning his intentions and an affidavit was submitted to the Court some time ago, but it is our position that the Court does not have jurisdiction, except as to those assets which are located in Georgia because of my client's lack of an intention to permanently reside here, and the lack of his intention to reside here, in my view, means that he could not have intended to

set up a marital domicile here and those are the bases on which jurisdiction over assets located outside of Georgia can be grounded.

THE COURT: The Court has specific recollection that I have urged that, in view of that being a specially pled matter, that you set it down for a hearing on the matter so that I can deal with it without a protracted jury trial on issues that might not be before the Court. That was never done and I will determine now, since we have tried the case and everybody has rested, that those -- that that was abandoned when we joined issue Monday morning in the selection of a jury. I will be glad to put that in the form of a motion reciting those matters and then we will see where we go from there.

* * *

IN THE SUPERIOR COURT OF COBB COUNTY

STATE OF GEORGIA

JANNA WILHELMINA GOELST,
Plaintiff,

v.

KAREL FRANCISCUS GOELST,
Defendant.

CIVIL ACTION FILE NO. 8513912-06

FINAL JUDGMENT AND DECREE

The within and foregoing matter was tried before this Court, sitting with a jury, commencing on July 21, 1986. On July 24, 1986, the Court directed a verdict that a divorce be granted on the grounds that the marriage was irretrievably broken, and the jury returned its verdict in the form

prescribed by the Court and the Court, with consent of the parties, has molded the verdict as is hereinafter set forth pursuant to Official Code of Georgia Sec. 9-12-5.

Based upon the aforesaid verdict of the jury, it is

Hereby ORDERED, ADJUDGED and DECREED as follows:

1.

Upon consideration of this case upon evidence submitted as provided by law, it is the judgment of the Court that a total divorce be granted, that is to say, a divorce a vinculo matrimonii, between the parties to the above stated case upon legal principles.

It is considered, ordered and decreed by the Court that the marriage contract heretofore entered into between the parties to this case, from and after this date, be and is set aside and

dissolved as fully and effectually as if no such contract had ever been made or entered into.

Plaintiff and Defendant in the future shall be held and considered as separate and distinct persons altogether unconnected by any nuptial union or civil contract whatsoever and both shall have the right to remarry.

2.

(a) The jury having rendered its verdict and having found that Plaintiff is entitled to alimony in the amounts set forth herein, it is hereby ordered, adjudged and decreed that the Defendant, KAREL FRANCISCUS GOELST, shall pay to the Plaintiff, as permanent alimony, the sum of Ten Thousand and No/100 Dollars ($10,000.00) per month beginning August 1, 1986, and continuing on the first day of each and every month thereafter until the home located at 3607 Childers Road,

Roswell, Cobb County, Georgia is sold; beginning on the first day of the first month after the closing of such sale, Defendant shall pay Plaintiff, as permanent alimony, the sum of Eight Thousand and No/100 Dollars $8,000.00 per month, which sum shall be paid by Defendant to Plaintiff on the first day of each and every month thereafter until Plaintiff's death or remarriage, whichever first occurs.

(b) The Court finds, based upon evidence presented to the Court sitting without a jury, that the Defendant is in arrears to Plaintiff in the amount of Eight Thousand and No/100 Dollars $8,000.00, representing the payment of temporary alimony due on July 1, 1986, and hereby awards judgment to Plaintiff in such amount and requires that Defendant pay said sum to Plaintiff instanter.

(c) It is further ordered that the Plaintiff shall pursue with due diligence the sale of the home at 3607 Childers Road, Roswell, Cobb County, Georgia, and that she shall sell said home for its fair market value. Plaintiff shall provide Defendant, through their respective attorneys, monthly written reports as to the progress, if any, being made by Plaintiff in the sale of said home if requested by Defendant's attorneys.

3.

The jury rendered its verdict making an equitable division of the property acquired during the marriage and, said verdict being molded with the consent of the parties hereto, it is ordered, adjudged and decreed as follows:

(a) Plaintiff, JANNA WILHELMINA GOELST, is hereby awarded the entire permanent ownership of the two tracts of

real property located at 3607 Childers Road, Roswell, Cobb County, Georgia, and shall be responsible for and shall pay the indebtedness owing on said property to Georgia Federal Savings and Loan Association and First Georgia Bank, said property being more particularly described follows:

TRACT I

All that tract or parcel of land lying and being in Land Lots 49 and 50 of the 1st District, 2nd Section, Cobb County, Georgia, as per survey by Perry E. McClung, Registered Land Surveyor, dated January 9, 1981, and being more particularly described as follows:

TO FIND A TRUE POINT OF BEGINNING: Begin at a point in the centerline of Childers Road (formerly Old Childers Road) 447 feet southwesterly as measured along the centerline of Childers Road from the point where the centerline of Childers Road intersects the east line of Land Lot 49; thence in a northwesterly direction a distance of 20 feet to an iron pin situated on the northwesterly right-of-way line of Childers Road which iron pin

is the TRUE POINT OF BEGINNING (said iron pin also being located at the southwesterly corner of the property now or formerly owned by Leroy Fuss, III) from said true point of beginning thence South 63 degrees 44 minutes 09 seconds West along the northwesterly right-of-way line of Childers Road a distance of 351.84 feet to an iron pin and corner; thence North 39 degrees 45 minutes 19 seconds West a distance of 495.38 feet to an iron pin and corner; thence North 68 degrees 05 minutes 38 seconds East a distance of 543.60 feet to an iron pin situated on the southwesterly line of property now or formerly owned by Leroy Fuss, III; thence South 16 degrees 38 minutes 54 seconds East along the southwesterly line of said Fuss property a distance of 446.67 feet to an iron pin situated on the northwesterly right-of-way line of Childers Road and the TRUE POINT OF BEGINNING, said property being the same conveyed to the parties by Claud Ronald Burke and Nellie S. Burke on January 15, 1981, and recorded in Deed Book 2302, Page 297, Cobb County Records.

TRACT II

All that tract or parcel of land lying and being in Land Lots 49 and 50, 1st District, 2nd Section, Cobb County,

> Georgia, consisting of 7.76 acres according to survey plat of Perry E. McClung, Registered Surveyor, dated June 8, 1981, recorded in Plat Book 78, Page 63, Cobb County Records, which recorded survey plat is by reference specifically made a part hereof, said property being the same conveyed to the parties by that Warranty Deed from Claude Ronald Burke and Nellie S. Burke on June 15, 1981, and recorded in Deed Book 2369, Page 111, Cobb County Records.

Hereafter, by and as a result of this Final Judgment and Decree, the Plaintiff shall own the entire interest in said real property formerly owned by the Defendant and Defendant shall have no right, title, interest or claim thereto.

(b) The household goods and furnishings located within the aforesaid abode shall be divided between the parties with the Plaintiff receiving two-thirds (2/3) of said household goods and furnishings and the Defendant receiving one-third (1/3). Within thirty (30) days

of the date of this Order, Plaintiff, using the appraisal performed in 1979 by Paul Sternberg as to the value of the furnishings, shall divide said household goods and furnishings into three (3) equal groupings and shall provide a list of each of such groupings to the Defendant, through his attorney. Thereafter the Defendant shall, within thirty (30) days of his attorney's receipt of such groupings, decide which of said three (3) groupings he shall desire to own and shall communicate that choice to Plaintiff, through her attorney. However, all of the furnishings shall remain in the aforesaid residence until the closing of the sale of such residence (or such other prior time as may be agreed upon by Plaintiff and Defendant) and the cost of removal and transportation of the personal property chosen by the Defendant shall be

paid by the Defendant. Plaintiff shall have the full and complete permanent ownership of all household goods and furnishings not chosen by the Defendant in the manner hereinabove provided.

(c) Plaintiff and Defendant shall each retain ownership of their respective items of personal jewelry and clothing.

(d) The Defendant is awarded ownership of all guns which were the property of the parties at the time of the rendering of the aforesaid jury verdict.

(e) The Plaintiff is hereby awarded ownership of the 1979 Cadillac automobile presently in her possession.

(f) All Corporations in which either party owns any interest and all bank accounts and monies outside of the United States shall remain "as is"; Plaintiff shall have the ownership of all monies standing in her name and on

deposit in financial institutions in the United States.

4.

(a) It is further ordered, adjudged and decreed that the debt, if any, owed to Meva Silent Gliss by the parties or either of them shall remain "as is".

(b) Defendant shall be responsible for and shall pay any indebtedness owing to Defendant's mother, as well as any interest which has accrued and which may hereafter accrue thereon.

5.

The ownership of all other marital property not referred to hereinabove shall remain "as is". All references in this Decree to "as is" shall be as of July 24, 1986.

6.

The Court hereby awards attorney's fees to Plaintiff and against Defendant as follows:

Charles Fields $Reserved for further order

Custer, John & Burke $Reserved for further order

It is hereby ordered that the Defendant shall pay those fees awarded to Charles Fields by _____ and shall pay those fees awarded to Custer, Johnson & Burke by _____.

7.

The molding of the verdict by the Court is consented to by both parties through their attorneys but shall not affect the right of either party to file a Motion for New Trial or an Appeal or to seek any such post-judgment relief available to him or her under the laws of the State of Georgia.

Both parties hereto are hereby ordered, directed and commanded to comply with and obey each and every provision of this Final Judgment and Decree of Divorce upon penalty of contempt.

SO ORDERED, this 8th day of August, 1986, nunc pro tunc July 24, 1986.

G. GRANT BRANTLEY,
Judge
Cobb Superior Court
Cobb Judicial Circuit

PRESENTED BY:

Lawrence B. Custer

B. Glen Johnson
Attorneys for Plaintiff

APPROVED AS TO FORM:

Wm. Scott Schulten
Attorney for Defendant

IN THE SUPERIOR COURT OF COBB COUNTY
STATE OF GEORGIA

JANNA WILHELMINA GOELST,
Plaintiff,

v.

KAREL FRANCISCUS GOELST,
Defendant.

CIVIL ACTION FILE NO. 85-1-3912-06

ORDER

The above styled matter having come on regularly for hearing on the Defendant's Motion for New Trial, after argument and consideration of briefs by the Court hereby denies the Defendant's Motion for New Trial.

SO ORDERED, this 17th day of December, 1986.

G. Grant Brantley, Judge
Cobb Superior Court
Cobb Judicial Circuit

Application No. 3896

SUPREME COURT OF GEORGIA

Atlanta February 12, 1987

The Honorable Supreme Court met pursuant to adjournment. The following order was passed:

KAREL FRANCISCUS GOELST

v.

JANNA WILHELMINA GOELST

Upon consideration of the application for discretionary appeal filed in this case, it is ordered that it be hereby denied.

SUPREME COURT OF THE STATE OF GEORGIA,
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Hazel E. Hallford, Deputy Clerk

Application No. 3896

SUPREME COURT OF GEORGIA

Atlanta March 3, 1987

The Honorable Supreme Court met pursuant to adjournment. The following order was passed:

KAREL FRANCISCUS GOELST

v.

JANNA WILHELMINA GOELST

Upon consideration of the Motion for Reconsideration filed in this Application, it is ordered that it be hereby denied.

SUPREME COURT OF THE STATE OF GEORGIA,
Clerk's Office, Atlanta

I certify that the above is a true extract from the minutes of the Supreme Court of Georgia.

Witness my signature and the seal of said court hereto affixed the day and year last above written.

Hazel E. Hallford, Deputy Clerk

O.C.G.A. Sec. 9-10-91

9-10-91. Grounds for exercise of personal jurisdiction over nonresident.

A court of this state may exercise personal jurisdiction over any nonresident or his executor or administrator, as to a cause of action arising from any of the acts, omissions, ownership, use, or possession enumerated in this Code section, in the same manner as if he were a resident of the state, if in person or through an agent, he:

(1) Transacts any business within this state;

(2) Commits a tortious act or omission within this state, except as to a cause of action for defamation of character arising from the act;

(3) Commits a tortious injury in this state caused by an act or omission outside this state if the tort-feasor regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this state;

(4) Owns, uses, or possesses any real property situated within this state; or

(5) With respect to proceedings for alimony, child support, or division of property in connection with an action for divorce or with respect to an independent action for support of dependents, maintains a matrimonial domicile in this state at the time of the commencement of this action or, if the defendant resided in this state preceding the commencement of the action, whether cohabiting during that time or not. This paragraph shall

not change the residency requirement for filing an action for divorce. (Ga. L. 1966, p. 343, Sec. 1; Ga. L. 1970, p. 443, Sec. 1; Ga. L. 1983, p. 1304, Sec. 1.)